



DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

Douglas M. Duncan
County Executive

October 11, 2005

Elizabeth B. Davison
Director

Mr. Douglas Delano
Vice President of Operations
NNPII- Clarksburg LLC
8201 Greensboro Drive, Suite 817
McLean, Virginia 22102
VIA FAX AND FIRST CLASS MAIL

RE: The Agreement to Build MPDUs in the Clarksburg Town Center Development

Dear Mr. Delano:

I have read your letter of response to Christopher Anderson's letter of September 26, 2005, in which he requested more information regarding the status of the Moderately Priced Dwelling Units (MPDUs) in the Clarksburg Town Center development. I have found your reply insufficient, especially considering that you offered no alternative date by which the information requested would be submitted.

Under paragraph 12 of the Agreement to Build Moderately Priced Dwelling Units which Terrabrook Clarksburg LLC signed with this Department on May 31, 2002, it is the developer's responsibility to make written application to the Director of the Department of Housing and Community Affairs, and to receive approval from the Director of DHCA, before the construction schedule contained as Exhibit A may be modified. It is clear that the projected completion dates for all the units in the development have passed, and yet construction is still not complete. More importantly, through our discussions with staff at Park and Planning, it appears the unit counts and phasing for both the market rate units and the MPDUs has changed. You did not request, nor did the Department approve either of these changes. I, therefore, have no choice but to find you in violation of the agreement. We do recognize that you have completed 82 MPDU's, representing 10.8 percent of the units built to date, which is roughly in proportion to the number of units required in the first two phases of development under your approved site plan. However, this does not change your responsibility to modify your agreement to reflect the current status of your approvals from Park and Planning, and your expected construction schedule.

Given the high importance the County places on affordable housing and ensuring that the development in the Clarksburg Town Center complies with the requirements of Chapter 25A, I will request that the Department of Permitting Service withhold building permits for the market rate units in the Clarksburg Town Center development, as is provided under Paragraph 4 of the



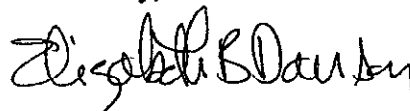
Office of the Director

Mr. Douglas Delano
October 11, 2005
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agreement, until such time as I am satisfied that the MPDUs will be delivered as required under the agreement and Chapter 25A of the Montgomery County Code, 2004 as amended, or until a new agreement to build is executed that reflects the currently approved site plan.

I would be happy to meet with you to discuss this issue further. Please call my assistant, Sheila Schmiedel at 240-777-3605, if you wish to schedule a meeting.

Sincerely,



Elizabeth B. Davison
Director

EBD:sns

cc: Stephen Z. Kaufman, Linowes and Blocher
Todd D. Brown, Linowes and Blocher
Christopher Anderson, Manager, Single Family Housing Programs, DHCA
Robert Hubbard, Director, Department of Permitting Services

S:\Files\recurring\Housing\MPDU\Anderson\Clarksburg Violation.doc

Davison, Elizabeth

From: Hubbard, Robert
Sent: Tuesday, October 11, 2005 10:41 AM
To: Davison, Elizabeth
Cc: Jetter, Reginald
Subject: RE: Letter to Clarksburg Developer

Yes, by copy of this e-mail I am asking Reggie to withhold issuing building permits for the new construction of market rate units in the Clarksburg Town Center beginning October 12, 2005 until further notice from you.

Robert Hubbard
Director, Department of Permitting Services
255 Rockville Pike
Rockville, MD 20850
(240) 777-6363
(240) 777-6361 (FAX)
robert.hubbard@montgomerycountymd.gov

-----Original Message-----

From: Davison, Elizabeth
Sent: Tuesday, October 11, 2005 10:36 AM
To: Hubbard, Robert
Cc: Anderson, Christopher; Weaver, David; Giloley, Joseph; Anderson, Mary
Subject: RE: Letter to Clarksburg Developer

Robert: Sorry about the cc, it was done rather quickly. I assume they will be in here as soon as they get this letter if not before. We will send the letter today and I will have Chris call them about it. I guess we should start withholding the permits as of tomorrow. Does that sound reasonable and doable?
Elizabeth

-----Original Message-----

From: Hubbard, Robert
Sent: Tuesday, October 11, 2005 10:30 AM
To: Davison, Elizabeth
Subject: RE: Letter to Clarksburg Developer

Draft as modified by David is fine; please change the cc to me to "Robert" instead of "Ronald". Let me know as soon as you would like us to withhold permits.

Robert Hubbard
Director, Department of Permitting Services
255 Rockville Pike
Rockville, MD 20850
(240) 777-6363
(240) 777-6361 (FAX)
robert.hubbard@montgomerycountymd.gov

-----Original Message-----

From: Davison, Elizabeth
Sent: Monday, October 10, 2005 5:06 PM
To: Anderson, Mary; Weaver, David
Cc: Anderson, Christopher; Giloley, Joseph; Hubbard, Robert

10/14/2005

Subject: Letter to Clarksburg Developer

FYI draft letter to the to the Clarksburg Developer

Elizabeth B. Davison

Director, Dept. of Housing and Community Affairs

Montgomery County, Maryland

(240) 777-3611

Fax (240) 777-3791

PLEASE NOTE NEW E-MAIL ADDRESS: elizabeth.davison@montgomerycountymd.gov

10/14/2005



Newland
COMMUNITIES

AT THE HEART OF GREAT LIVING

OCT 4 '05 AM 8:44

September 30, 2005

Mr. Christopher J. Anderson, Manager
Single Family Housing Programs
Department of Housing and Community Affairs
100 Maryland Avenue, 4th Floor
Rockville, MD 20850

Dear Mr. Anderson:

Thank you for your letter of September 26th requesting updated information regarding MPDUs and other construction at Clarksburg Town Center. We will endeavor to assemble the requested information as soon as possible, but due to the extensive nature of your request, it is unlikely that it will be completed by October 3.

We will keep you up-to-date on our progress. Please feel free to give me a call if you have any questions.

Sincerely,

Douglas C. Delano
Vice President Operations

Cc: Stephen Z. Kaufman, Linowes and Blocher
Todd Brown, Linowes and Blocher



DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

Douglas M. Duncan
County Executive

Elizabeth B. Davison
Director

VIA FAX AND FIRST CLASS MAIL

September 26, 2005

Douglas Delano
NNPII- Clarksburg LLC
8201 Greensboro Drive, Suite 817
McLean, VA 22102

RE: The Agreement to Build MPDUs in the Clarksburg Town Center Development

Dear Mr. Delano:

In my recent conversations with staff in both Park and Planning and the Office of Legislative Oversight, it has come to my attention that the MPDU construction schedule contained in the enclosed Agreement to Build MPDUs that was executed between Terrabrook Clarksburg LLC and the Montgomery County Department of Housing and Community Affairs (DHCA) on May 31, 2002 may not reflect the current development status of the above referenced project.

If this is the case, please submit an amended construction schedule as soon as possible, but no later than October 3, 2005. This schedule must reflect the corrected unit counts and phasing plan for both MPDUs and market rate units, including the beginning and ending dates of the construction of both types of units. We also need a list of which homebuilders are responsible for building each phase (or sub-phase), and how many of each type of unit each homebuilder is responsible for building in each phase. Also, in accordance with new procedures implemented between DHCA and the Department of Permitting Services (DPS), I need a list showing the address and tax account number of each market rate unit, and each MPDU in the Clarksburg Town Center Development.

Finally, for our records, please include documentation evidencing your firm's assumption of Terrabrook Clarksburg LLC's responsibilities. Your immediate attention to this request is appreciated. If you have any questions, I can be reached at 240-777-3713. Thank you.

Sincerely,

Christopher J. Anderson, Manager
Single Family Housing Programs

Cc: Stephen Z. Kaufman, Linowes and Blocher
Todd D. Brown, Linowes and Blocher
Elizabeth B. Davison, Director, DHCA



Division of Housing and Code Enforcement

Code Enforcement
FAX-240/777-3701

Moderately Priced
Dwelling Unit
240/777-3709

Housing Development
and Loan Programs
240/777-3691

Landlord-Tenant Affairs
240/777-3691

EXHIBIT "A"
CONSTRUCTION SCHEDULE

In compliance with Chapter 25A of the Montgomery County Code, 1994, as amended, Applicant agrees that the Units in Clarksburg Town Center will be constructed in accordance with the schedule indicated below. Applicant is aware that this schedule must indicate that the MPDUs shall be constructed along with, or preceding, other dwelling units in Clarksburg Town Center and that failure to comply with this schedule may result in suspension or revocation of any building permit, occupancy permit or subdivision plan associated with the project described herein or such other enforcement measure authorized by Chapter 25A of the Montgomery County Code, 1994, as amended. The MPDU staging plan must be consistent with the site plan enforcement agreement. The Applicant must sequence the construction of the MPDUs so that the construction of MPDUs reasonably coincides with the construction of the market rate housing. Subject to the construction schedule below, the last building built must not contain only MPDUs.

Development Phase	No. Of Market Priced Units	Approx. Mo. & Yr. Of Constr. 1/ Start of Mkt. Price Units*	Approx. Mo. & Yr. Of Constr. 2/ Completion of Market. Price Units*	Number of MPDUS	Approx. Mo. & Yr. Of Constr. Start of MPDUs*	Approx. Mo. & Yr. Of Constr. Completion of* MPDUs
1B-1	23	11/01	04/02	0	N/A	N/A
1B-2	115	02/02	08/02	9	06/02	12/02
1B-3	154	11/02	05/03	17	03/03	09/03
2	487	05/03	11/03	46	09/03	03/04
1A	165	11/02	05/03	23	03/03	09/03
3	356	11/03	05/04	68	03/04	09/04

Total Units

1300

163

1. "Construction Start" is defined as the date on which footings are poured for the subject units.
2. "Construction Completion" is defined as the date that final inspections by the Department of Permitting Services are completed.

* Builder to determine exact date for construction start and completion.